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ABSTRACT

State licensing requirements for day care family homes in Arkansas are collected in this publication. Contents focus on the licensing authority, definition of a family day care home and application requirements, administration, personnel, program and activities, discipline and guidance, records, food service and nutrition, building and grounds, sleeping and toileting arrangements, health, fire and safety, alternative compliance, and the licensing procedure. Appended materials provide an immunization schedule; a guide to amounts of food considered appropriate for children at different ages; a list of equipment considered appropriate for children of different ages; a copy of the Child Care Facility Licensing Act; information about granting, revoking, denying, or suspending licenses; and discussion of "show cause" hearings and appeal procedures. (RH)

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MINIMUM STANDARDS REQUIRED FOR LICENSING OF DAY CARE FAMILY HOMES

Arkansas Social Services Division

Department of Human Services

PS 015028

SS-PUB-001

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MINIMUM STANDARDS REQUIRED FOR LICENSING OF DAY CARE FAMILY HOMES

DEPARTMENT OF HUMAN SERVICES

ARKANSAS SOCIAL SERVICES

CHILD DEVELOPMENT UNIT

SS-PUB-001 (R 4/84)-13-190010

PREFACE

The Day Care Family Home is especially appropriate for parents who need care for infants, pre-school and school age children. The public has made an investment in these children by supporting the Child Care Facility Licensing Act. The authority to administer this law is vested in the Division of Arkansas Social Services.

Care given in a Family Home situation is the closest to a child's experiences in his own family. The concept of Day Care Family Homes is not new, for many years children have been cared for by grandmother, aunt or neighbors. But now a real professionalism has developed for the caregiver in a Family Home situation.

A "home away from home" is a quality Day Care Family Home. The activities are informal in nature and provide children an opportunity to participate in normal household routines. Children live with both younger and older children. A child can be himself - to feel angry, shy or happy - to eat, rest and play when he needs to. A child has the opportunity to feel comfortable and confident in himself, in the safety and security of a home.

In an ideal Day Care Family Home, learning takes place everywhere, all day long. Here there is time for the children to play, to explore and experiment with their environment both in the home and the neighborhood. All of the experiences and care the children are given in a good Day Care Family Home help them to learn more about themselves, others and the world about them.

To assist in the improvement of Day Care Family Homes and in maintaining compliance with standards, Arkansas Social Services will provide consultation for those planning to open facilities and periodically make training available for child care personnel through workshops and training courses.

The requirements in this booklet represent the practices which have grown out of sound knowledge of child - development, early childhood education, social work, and public health. These requirements are based on the needs of children and are adopted to promote the well-being of these children.

There may be situations in which a Day Care Family Home does not conform to a specific requirement, if so it may be possible to comply with a given requirement by an alternate method which meets the intent of the rule. The section dealing with Alternative Compliance provides this opportunity. (Refer to Section 1200)

CHILD CARE FACILITY REVIEW BOARD MEMBERS

CHAIRMAN -Commissioner of Social Services Division, Post Office Box 1437, Little Rock, AR 72203 -Telephone 371-2521

Day Care
Mr. Lloyd Schuh
Post Office Box 2750
Fort Smith, Arkansas 72901
Telephone 452-4497
Term expires: March 1, 1984

Institutions
Mr. Leroy Acree
C/O Vera Loyd Presbyterian Home
Post Office Box 680
Monticello, Arkansas 71655
Telephone 367-3418
Term expires: March 1, 1983

Foster Care
Mr. John Lusk
309 North Washington Street
El Dorado, Arkansas 71730
Telephone 862-6641
Term expires: March 1, 1985

Public at Large
Dr. Susan Keathley, Pediatrician
Post Office Box 5597
Little Rock, Arkansas 72215
Telephone 227-6727
Term expires: March 1, 1986

Representative of State Health Department (or his designee)
Mr. Ray Allen
4815 West Markham
Little Rock, AR 72201
Telephone 661-2000

Representative of State Department of Education
Mr. Larry Robertson
Education Building (Arch Ford)
Room 202 West State Capitol Mall
Little Rock, Arkansas 72201
Telephone 371-1861

Representative of the Family & Children's Services Advisory Committee
Dr. P. B. Greenhouse, Home Economics Division
University of AR at Pine Bluff
Pine Bluff, Arkansas 71602
Rt. 8, Box 894
Telephone 541-6501
Term Expires: Will of Governor

Four members of the Board appointed by the Governor shall at all times be from different counties and at least two members shall be chosen from an area north of fifth principal meridian and the other two from an area south of the principal meridian.

LICENSING REQUIREMENTS FOR DAY CARE FAMILY HOMES

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Licensing Requirements for Day Care Family Homes

Foreword

LICENSING AUTHORITY

"The Child Care Licensing Act", Act 434 of 1969, as amended, is the legal authority under which the State Child Care Facility Review Board prescribes minimum standards for a variety of child care facilities defined under the Acts.

Agency Responsibility

The Division of Social Services (referred to hereafter as The Division) under the Department of Human Services is directly responsible for the inspection and evaluation of all child care facilities as defined according to Act 434 of 1969, Section 2, Paragraph (D) and Act 123 of 1973, Section 4, Paragraph 5.

Application of Requirements

The following requirements contain reference to two types of licensing standards, using the words "shall" and "should". The use of the word "shall" indicates that the terms of the statement are required for a facility to be in substantial compliance. The use of the word "should" indicates that the statement is recommended but not required for substantial compliance.

In determining a recommendation for licensing or church-operated exemption, the facility shall be reviewed by a Child Care Licensing Specialist to determine that the facility is in substantial compliance with the requirements.

Substantial Compliance means there is no omission of the essential standards necessary to protect the health, safety, and welfare of the children and that all required standards will be met within a reasonable timeframe agreed upon by the Child Care Licensing Specialist and facility. Those essential standards which shall be met 100% are those which relate to: fire, health, safety, nutrition, staff/child ratio, and space. (Act 245 of 1983 states that licensing standards shall not include those of a religious or curriculum nature so long as the health, safety and welfare of the child is not endangered.) The standards for discipline shall be those in effect at the time of application for licensure.

All areas of the requirements are reviewed and considered based on the frequency, degree, severity and number and nature of noncompliance items present.

There may be situations in which a facility does not conform to a specific requirement, if so it may be possible to comply with a given requirement by an alternative method which meets the intent of the rule. The procedure for

Alternative Compliance shall apply only to those standards which are to be met 100% (except items of health & fire safety which are to be met according to the terms of the appropriate Health and Fire Departments). Any deviation from the standards for discipline requires a request and approval of Alternative Compliance by the Child Care Facility Review Board.

Child Care Facility Review Board Functions

The Child Care Facility Review Board has the power to establish rules, regulations, and standards for licensing and operation of child care facilities. This includes all powers with respect to granting, revocation, denial, and suspension of licenses. Decisions regarding special situations shall be made on an individual basis by the Child Care Facility Review Board. (Act 434 of 1969, as amended.)

Facilities Requiring Licensing

"Child Care Facility" means any facility which provides care, training, education, custody, or supervision for any minor child who is not related by blood, marriage, or adoption to the owner or operator of such a facility, whether or not the facility is operated for profit, and whether or not the facility makes a charge for the services offered by it, and this definition includes, but is not limited to, a nursery, a nursery school, a kindergarten, a day care center, or a family day care home, foster homes, group homes and custodial institutions; provided, that this definition does not include: (1) Special schools or classes operated solely for religious instruction; (2) Facilities operated in connection with a church, shopping center, business, or establishment where children are cared for during short periods of time while parents or persons in charge of such children are attending church services, shopping, or engaging in other activities during such periods; (3) Any educational facility, whether private or public, which operates solely for educational purposes in grade one or above and does not provide any custodial care; (4) Kindergartens operated as a part of the public schools of this State; (5) Any situation, arrangement, or agreement by which one or more persons care for the children of not more than four (4) families at the same time, but not to exceed six children; (6) any educational facility, whether public or private which operates a kindergarten program in conjunction with grades one and above, and provides short term custodial care, prior to and/or following classes for those students. (Arkansas Statutes Annotated § 83-901--83-919.)

100 DEFINITION AND APPLICATION

101 Definition

A Day Care Family Home is defined as a situation in which children are cared for in a caregiver's own family residence. A Day Care Family Home requires licensing when children from more than four (4) families or more than six children are in care within the home at the same time.

102 Application

The primary caregiver in the Day Care Family Home shall submit a completed and signed application to the Division on a form provided by the Division.

1. All caregiver(s), within the Day Care Family Home shall be named on the application form.

2. The caregiver(s) shall give the Division the names, addresses, and telephone numbers of three adult references who are not related to the caregiver(s). The references will be asked to provide information concerning the caregiver's character, health, and ability to provide for the well-being of children.

200 ADMINISTRATION

1. All applicable local health and fire regulations shall be met.

2. The caregiver shall be responsible for the health, welfare and safety of the children in care.

3. A current Day Care Family Home license shall be available in the home.

4. The primary caregiver is responsible for the home's day-to-day operation and for meeting licensing requirements.

5. The caregiver shall offer prudent supervision of all staff and other persons in the Day Care Family Home.

6. A copy of "Minimum Standards Required for Licensing of Day Care Family Homes" shall be available in the Home to parents, caregivers, and others upon request for review.

7. The caregiver(s) shall notify the Child Care Licensing Specialist or the Social Services Office when there is reason to believe that a child has been abused or neglected. (Act 397 of 1975)

8. Reports of abuse or neglect of a child in care shall be thoroughly reviewed by the Child Care Licensing Specialist.

9. A substantiated report of abuse or neglect by a caregiver or other persons in the Day Care Family Home may be the basis for denial, revocation or suspension of a license.

10. Any applicant for a license convicted of a felony crime or a misdeameanor involving child abuse shall be individually considered by the Child Care Facility Review Board.

300 PERSONNEL

301 Caregiver to Child Ratio by Age

1. A Day Care Family Home with one caregiver may accept a maximum of ten (10) children provided all other requirements are met.

2. A Day Care Family Home with two caregivers may accept a maximum of sixteen (16) children provided all other requirements are met.

3. The caregiver's own pre-school children shall be included in the caregiver/child ratio by age.

4. A Day Care Family Home which requires a license shall meet the following caregiver/child ratio:

Adult Caregivers	Number of Children	Age of Children
1	5-6	0-up (No more than 3 children under 2 years)
1	7	0-up (No more than 2 children under 2 years)
1	up to 9	0-up (No more than 1 child under 2 years)
1	9-10	3-up (No child under 3 years)
2	11-14	0-up (No more than 4 children under 2 years) Health and Fire inspections are mandatory for homes caring for eleven (11) or more children.
2	15-16	0-up (No more than 2 children under 2 years.) Health and Fire inspections are mandatory for homes caring for eleven (11) or more children.

302 Caregiver Qualifications and Responsibilities

1. Age. The Family Home caregiver(s) shall be between the ages of 21-65 years. Persons over 65 shall be considered on an individual basis by the Child Care Facility Review Board.

2. Health. The caregiver shall provide an annual physician's statement verifying that the caregiver is free from communicable disease and physically able to care for children, including a tuberculin test (either a skin test or an x-ray). Caregivers over 65 years of age shall renew their statement every six months.

3. Ability. The caregiver(s) shall demonstrate the ability to provide for the well-being of children in the following ways:

. Shall not accept more child care responsibilities than emotional and physical stability allows.

. Shall demonstrate the willingness to learn the needs of the individual children, and to respond to those needs in a nurturing manner.

. Shall be able to read and write well enough to keep required records.

4. Back-up Assistance. The caregiver shall make a plan with a capable person or persons who would be able to care for the children in the event of an emergency.

   The name of the back-up person or persons shall be provided to the licensing worker.

5. The caregiver shall not be otherwise employed during the time she is responsible for children in the home. Employment, at other times shall not affect the quality of care given the children.

6. The caregiver(s) should attend at least one child care workshop/ training session/course, etc., per year.

303 Adults in the Day Care Family Home

1. Health -Any adult(s) in addition to the caregiver(s) present in the Day Care Family Home on a regular basis while children are in care shall provide an annual physician's statement verifying that the adult is free from communicable disease, including a tuberculin test (either a skin test or an x-ray). Persons over 65 years of age shall renew the statement every six months.

2. A Day Care Family Home shall not have invalids or persons requiring special care because of age or disability unless there is another adult present who shall be responsible for that particular person's needs.

3. The caregiver(s) shall provide a clear statement regarding the presence of any other adults who remain in the home during any hours in which care is being given. Such persons shall not present a threat to the safety or welfare of the day care children.

400 PROGRAM AND ACTIVITIES

401 Program

1. A planned daily routine shall be established and shall be in written form. Activities shall be suited to the ages, interests, and abilities of the children. Activities shall be flexible and promote the physical, emotional and mental growth of each child. They shall include:

   . Regular meal and snack times.

   . A supervised nap or rest period which should not be longer than two hours.

. A minimum of one hour per day of outside play, unless prevented by weather or special medical reasons.

. Indoor periods for active and quite play and time for individual and group activities.

402 Equipment for Activities

1. Indoor activity equipment shall be adequate for the number and ages of children in the Day Care Family Home to meet their physical and develop-mental needs.

   . Infants up to 18 months of age shall have safe, soft, washable toys. Toys or materials used by younger children shall not be small enough to be swallowed.

   . Children 18 months of age or older shall have a variety of toys, books, and creative materials which will be fun and stimulating for the chil-dren. This would include equipment for:

   (1) Large muscle activities (climbing, running, jumping).

   (2) Manipulative activities (things done with the hands).

2. Outdoor equipment shall be appropriate for the number and ages of children in care to meet their physical and developmental needs.

403 Infant Care

1. Children under 18 months of age shall be cared for in an atmosphere that promotes their physical, mental, emotional, and social growth.

2. Infants shall be carefully supervised at all times.

3. Stimulation shall be given an infant in a variety of ways.

   . Infants shall be talked to, held, and played with by the caregiver.

   . Each infant shall be given some opportunity during the day, both morning and afternoon, to explore the area outside the crib or baby bed and to learn on his or her own.

   . Infants shall be taken outside for a time every day weather permitting.

   . An infant, when awake, may remain in the crib as long as he or she is content but never for periods longer than one hour.

4. Children shall be encouraged, not forced, when learning the use of the toilet.

404 School Age Children

1. The school age child shall be provided with a choice of indoor and outdoor activities.

2. A quite time and a private place with appropriate equipment shall be provided for one-person activities, including resting or homework.

3. Permission of parents shall be on file for school age children to leave the Day Care Family Home.

   . School age children who leave the Day Care Family Home to participate in classes, clubs, or other activities shall have written permission from the parents naming the activity, time of leaving and returning and method of transportation to the activity.

   . Permission for regular activities such as scouting may be given for the entire school term.

405 Children Needing Special Care

Children who need special care due to disabiling or limiting conditions shall be given care recommended by qualified psychologists, physicians, parents, or other experts.

406 Evening and Night Care

1. When a Day Care Family Home offers evening or night care, it shall comply with the following:

   . The caregiver(s) shall stay awake until all children are asleep.

   . There shall be a plan for transporting the sleeping children to safety in case of fire or emergency.

2. Activities shall meet the special needs of children in evening or night care.

   . Children arriving in the daylight hours shall have outdoor play, weather permitting. Older children shall have time for reading or doing homework during the school year.

   . There shall be opportunities for quiet calming activities prior to bedtime.

   . The caregiver shall set a reasonable bedtime based on the needs of each child.

3. Children in evening and night care shall have a routine with the necessary equipment provided.

   . Evening meals shall be served; and for children spending the night, breakfast shall be served.

. Drinking water shall be available to children during the night.

. Bathing facilities shall be available. Hot water shall be available. When bathtubs or showers are used, preschool children shall be closely watched. Fresh water shall be given each child, and tubs or showers cleaned after each use. Children shall be given fresh washcloths and towels. Privacy shall be ensured for school age children.

. Children in evening care shall be given a bed or cot with mattress or pad and a pillow. Children in all night care shall be given a bed with a mattress and pillow. Sleeping equipment shall suit the age and size of the child.

1. If linens become soiled, they shall be changed. Protective mattress covers shall be used.

2. Each child's bed or cot shall have a cover available.

3. Beds or cots shall be arranged at least two feet apart.

. The Day Care Family Home shall require that each child in night care has night clothing and toothbrush marked with his or her name, or other means of identification.

500 DISCIPLINE AND GUIDANCE

1. Use of positive discipline and guidance shall show that the caregiver understands each child's needs and shall promote self-discipline and good behavior. The caregiver shall provide a written discipline policy.

2. Brief, supervised separation from the group may be used.

3. Children shall not be placed in a locked room.

4. Children shall not be shamed or spoken to abusively or with profanity. Children shall not be denied food, put to bed for punishment, or punished for poor toilet habits.

5. There shall be no harsh, cruel, or unusual discipline. Corporal punishment shall not be used with any child under 3 years of age. Corporal punishment shall not be used with children ages 3 and above without the written permission of the parents.

600 RECORDS

601 Child Records

1. Enrollment information shall be obtained for each child before admission and filed in the records of the Day Care Family Home. A child care information form signed by the parents and caregiver(s) shall have the following information:

1. Child's name, birthdate, home address, and telephone number.

2. Name and addresss of the parents and telephone numbers where the parents can be reached while a child is in care.

3. Statement that the child will be left with the caregiver and released only to the parents or person named by the parents.

4. Hours the child will be in care.

5. The name, address, and telephone number of the child's physician.

6. Consent for emergency medical care.

7. Transportation permission, if any.

8. Permission to participate in water activities, if any.

9. Child's unusual food needs such as special formulas, diabetic diet, or food allergies.

10. Notes of special problems (such as allergies to medication or sunburn sensitivity) or needs as indicated by the parents.

11. Pertinent past medical history on the child; and any change in health, including accidents or injuries which occur in the Day Care Family Home.

12. Pertinent social information.

13. Agreement regarding method of discipline.

14. Statement that the parents may ask for a conference with the caregiver(s).

15. An authorized record of immunizations as required by the Arkansas Department of Health.

Children shall have completed or be in the process of completing their immunizations as currently recommended by the Arkansas Department of Health in order to be admitted to the home. (An immunization schedule is included in the appendix.)

An immunization record shall be kept on each child showing the exact date and type of immunization administered. It is important that authorized physician's statements or Health Department record cards be obtained by the parent(s) and recorded by the caregiver to determine the exact date and type of immunization. Sample record forms, available from Arkansas Social Services, may be used.

Those children who, due to age, are not completely immunized on admission to the Day Care Family Home should receive their immunizations as scheduled. The caregiver shall maintain a roster of children who have not completed the mini-

mum immunization requirements. The roster should indicate by individual name, the number of additional doses of each vaccine a child requires, and shall be referred to periodically to ensure compliance.

700 FOOD SERVICE AND NUTRITION

701 Food Service

1. A Day Care Family Home caring for eleven (11) or more children shall provide verification of an annual Health Department inspection.

2. All food and drink shall be safe and stored, prepared, distributed, and served under sanitary conditions.

3. All food and drink shall be properly stored to prevent spoiling.

4. Individual drinking glasses or disposable cups shall be provided.

702 Nutrition

1. Each child in care at meal time shall be provided a well-balanced meal consisting of 1/3 of the minimum daily requirements from the four basic food groups. Milk shall be provided to each child daily. Children shall be offered additional servings of food.

2. Nutritious midmorning and midafternoon snacks shall be provided to all children present.

3. Children of any age shall be encouraged, but not forced, to eat. Good eating habits should be recognized and praised. Meals shall be served in relaxed surroundings that help the children eat well.

4. The caregiver(s) should eat at the table with the children.

5. Nutrition for Infants:

   . The use of baby food, bottles and formula shall be agreed upon by the caregiver and parent and may be provided by the parent.

   . Children shall not share the same bottle. A sanitary method of cleansing baby bottles shall be practiced. Baby bottles shall be properly refrigerated.

   . The solid foods fed to an infant shall be determined by his parent(s).

   . Children shall be encouraged to feed themselves when an interest is shown.

   . Infants under six months of age shall be held while being fed. Bottles shall not be propped. Infants six months of age or older shall be held if needed.

   . Infants no longer held for feeding shall either sit in low chairs at low tables or in infant seats with trays, or in high chairs with wide bases and safety straps shall be used.

800 BUILDINGS AND GROUNDS

1. The Day Care Family Home's building, grounds, and equipment shall be clean, kept in good repair, and maintained as needed to protect the health and safety of the children.

2. There shall be at least 35 square feet of useable indoor space for each child in the home. This area shall not include kitchens, bathrooms, hallways or closets.

3. The Day Care Family Home shall have a working telephone.

4. Light, heating, cooling, and ventilation of the home shall be adequate for safety and comfort. Heating shall be adequate to keep the floor warm and the room temperature between 65 and 75 degrees.

5. There shall be an outdoor play area of at least 75 square feet per child for each child on the playground.

6. The play area shall be fenced when needed for protection to the children.

7. The play area shall be maintained in good order and free of potentially hazardous items at all times.

8. All playground equipment shall be securely anchored.

9. Children shall be supervised when they are in the play area.

900 SLEEPING AND TOILETING ARRANGEMENTS

901 Sleeping Arrangements

1. Each child shall have his/her own clean place to sleep or rest.

2. Each child under eighteen (18) months of age shall have a separate well-constructed baby bed or play pen. The mattress or pad shall be clean, dry, waterproof in good condition, and properly fit the bed or play pen. Sheets and covers are required and shall be kept clean and dry.

3. Each child eighteen (18) months of age or older shall have a cot, bed, pallet, or mat. All bedding shall be of washable material and shall be kept clean. If mats or pallets are used on floors, floors shall be clean, warm, dry, and draft free.

902 Toileting Arrangements

1. Bathroom and toilet equipment shall be adequate to handle children's needs quickly and safely.

   At least one commode and one wash basin shall be made available for the children's use. Potty seats may be used by the younger children (those under age 2), if kept sanitary.

   Clean towels or paper towels shall be available to each child daily.

2. Diapers shall be changed as necessary. Sanitary care of diapers shall be practiced. This includes:

. Separation of children's individual diapers, when parent brings diapers to the Day Care Family Home.

. Worker shall wash their hands with soap or equivalent after each diaper change or diaper rinse.

1000 HEALTH

1001 General

1. The Day Care Family Home shall have an adequate supply of water that meets the standards for drinking water of the Arkansas Health Department. Water shall always be available to the children.

2. Garbage shall be kept in a closed container out of children's reach.

3. The home shall be free of insects and rodents.

   a. Standing water shall not be allowed in or around the house.

   b. Pesticides shall be kept out of the reach of the children.

4. Waste and sewage disposal, and toilet facilities shall be safe and sanitary. The Health Department may be consulted for its recommendation.

1002 Children's Health

1. The child who is obviously ill shall not attend the Day Care Family Home.

2. Illness in the Day Care Family Home shall be handled to protect all children in care.

   a. When a child is ill, the following procedures shall be observed:

      1. The child shall rest on a bed, cot, or mat, and be separated from the other children.

      2. The child's parents shall be called immediately.

      3. The child shall be given first-aid if needed.

      4. The child shall be closely watched until he or she leaves.

   b. In case of critical illness or injury, and if the parents cannot be reached, the physician named by the parent shall be called. If necessary, the child shall be taken to the nearest emergency room.

3. The caregiver shall notify the child's parents of significant events that affect the children.

   a. Cases of serious contagious disease shall be reported to the parents of all the children in care.

   b. Any special problems shall be brought to the attention of the parents.

4. First-aid materials are required and shall be kept out of reach of children or in a locked container. The first-aid materials shall include: adhesive band-aids (various sizes), scissors, sterile gauze squares, roll of gauze bandages (2" wide), adhesive tape, antiseptic for cuts and scratches, and a thermometer.

1003 Medications

1. Prescription medicine shall be in the original container and labeled with the child's name, a recent date, instructions, and the physician's name. Medicines shall be given a child only with the written permission of the child's parent(s) or guardian.

2. All non-prescription medicine (except aspirin or aspirin substitute) shall be labeled with the child's name and dated. All non-prescription medicine (including aspirin or aspirin substitute) shall be given to the child only with permission of the child's parent(s) or guardian.

3. Medicines shall be kept out of the reach of children or in a locked container.

4. Medicine shall be properly stored and returned to the parents when no longer needed.

5. Medication left at the Day Care Family Home when a child withdraws from care or when the medicine is out of date shall be disposed of.

1004 Emergency Phone Numbers

The following emergency telephone numbers shall be readily available to the caregiver:

1. Ambulance service or emergency medical service.

2. Police or sheriff's department.

3. Fire department.

4. The physicians named by the parents.

5. Home and business numbers of the parents.

Enrollment forms kept near the phone meet the requirements of 4 and 5.

1005 Animals

Pets who are in the Day Care Family Home or on the grounds shall receive vaccination as required by law. The home shall maintain proof of such vaccination. The number of animals in the Day Care Family Home shall not

constitute a hazards to the children. Any pet that constitutes a threat to the welfare and safety of the children shall be kept in a confined area which prevents any contact with the children.

1100 FIRE AND SAFETY

1101 Fire

1. A Day Care Family Home caring for eleven (11) or more children shall provide verification of an annual Fire Department inspection.

2. In case of fire, no matter how small, the first responsibility of the caregiver shall be to get the children to a safe place.

3. The caregiver(s) shall provide written fire escape plans.

4. Fire drills shall be held at least once every three months at different times of the day. A written record of drills shall be maintained.

5. A smoke detector should be installed and in working condition in the home.

6. The home shall be maintained to be free from fire hazards at all times. (The local fire department shall be consulted when it appears hazards exist.)

7. The structure and use of the home shall permit easy entry and exit.

   . A Day Care Family Home with more than one level shall have second exits on all levels used by the children.

   . A Day Care Family Home shall have at least two exits to the outside located on different sides of the home.

   . Doors opening into a fenced yard shall be constructed so the children can open them easily from the inside.

   . Doors between rooms in the exit route shall not be locked while children are in the home.

   . Doors and pathways shall be clear of equipment that blocks the movement of children and caregiver(s).

8. Heating devices and their nearby areas shall not be fire hazards.

   . Woodburning stoves, or gas logs, fireplaces, open flame space heaters, floor furnaces or other sources of heat must be guarded and/or vented when necessary for the protection of the children.

   . The caregiver shall notify the Child Care Licensing Specialist of any fires causing structural damage or which occur while children are in the home.

1102 Safety

1. Electrical outlets in rooms used by children shall be covered for safety.

2. A cooling unit shall have guards when necessary for the protection of children and adults.

3. Stairways shall be well lighted and guarded as needed for the safety of children. All windows shall be screened and safe for children.

4. Dangerous equipment and/or objects shall be stored away from areas used by the children.

5. Dangerous substances including but not limited to the following shall be stored in a locked cabinet or out of reach of children: cleaning supplies, solvents, combustible liquids, medicines and cosmetics.

6. Outdoor equipment such as climbing gyms, swings, monkey bars, and slides shall be located away from busy areas in the play area and anchored securely.

7. The play area shall be dry and free from sharp objects. Tanks, ponds, open wells, drainage ditches, sewage drain pipes, and dangerous machinery shall be fenced to keep children from getting to them.

8. All local health and safety requirements shall be met before a swimming pool is given consideration for approval. For any Day Care Family Home seeking approval for a swimming pool, a request for such shall be presented to and approved by the Child Care Facility Review Board prior to use.

9. Toys shall be safe and in good repair for children's use.

10. Mobile homes may not be used as Day Care Family Homes unless tied down and underpinned as recommended by the Arkansas Mobile Home Commission. A fire inspection shall also be required.

1103 Transportation

When a Day Care Family Home provides transportation, children shall be protected.

1. Vehicles used for transporting children shall be in safe operating condition and in compliance with applicable State and local laws.

2. Drivers shall obey State and local driving laws and shall have a current drivers license.

3. Children shall be seated safely (this should include the use of approved car safety seats) when the vehicle is in motion.

4. Children shall enter and leave a vehicle at the curb side in a protected area or driveway.

5. Caregivers shall have the parents sign and date a statement giving permission to transport their child.

1200 ALTERNATIVE COMPLIANCE

1. The Child Care Facility Review Board may grant alternative compliance with the Minimum Standards Required for Licensing of Day Care Family Homes promulgated under the authority of Acts 434 of 1969 and 123 of 1973, as revised, if, the Board determines that the alternative form of compliance offers equal protection of health, safety and welfare to children and meets the basic intent of the requirement for which the alternative compliance is sought.

2. The Child Care Facility Review Board shall consider all requests for alternative compliance with the Licensing Requirements except those requirements which are enforced by the Department of Health, Local Fire Marshal or State Fire Marshal's Office.

3. To request alternative compliance the following procedure shall be initiated by the person responsible for the operation of the facility:

   a. The applicant/licensee shall submit the request for alternative compliance in writing.

   b. The request shall include:

      . The specific standard for which alternative compliance is sought.

      . An explanation of how the alternative form of compliance is equal to or exceeds the stated requirement.

      . Full justification and description of what the alternative compliance method will be and the method by which the facility will carry out this plan to be able to continue to provide for the health, safety and welfare of children as intended by the requirement.

      . The applicant/licensee shall provide clear and supportive evidence and upon request of the Child Care Facility Review Board an expert's opinion of the effect of the health, safety and welfare of children and how it will be protected through the alternative means of compliance.

4. A separate written request shall be submitted for each requirement for which alternative compliance is sought.

   The approved alternative compliance is effective for the duration of the license only, unless a shorter time frame is requested. A request for alternative compliance shall be submitted with each subsequent application if the licensee requests continuation.

5. The granting of alternative compliance for a requirement shall in no way constitute a precedent. If an alternate means of complying with the requirement is granted by the Child Care Facility Review Board, and the facility fails to satisfactorily implement this alternate means, the original requirment for which alternative compliance was sought shall become immediately enforceable.

6. The Child Care Facility Review Board shall have the right to obtain an expert opinion to corroborate that provided by the applicant/licensee.

7. The Child Care Facility Review Board reserves the right to deny requests for alternative compliance when it finds that such request does not adequately protect the health, safety and welfare of children and does not meet the intent of the requirements.

8. All requests for alternative compliance shall be answered in writing by the Child Care Facility Review Board.

1300 LICENSING PROCEDURE

1. An individual or group wishing to establish or to have a licensed child care facility may obtain an application for a license and related form from the local Arkansas Social Services Office.

2. The applicant must submit to Arkansas Social Services a list of staff and their qualifications, and a description of the services which will be provided to children.

3. The facility shall be inspected, evaluated, and a recommendation for a license made by Arkansas Social Services to the Child Care Facility Review Board. A licensee shall not accept more children than the maximum specified on the license. Arkansas Social Services shall have authority to visit and inspect the facility. Ordinarily, this shall be made after appropriate notice has been given to the Day Care Family Home provider.

4. The license shall be renewed one year from the date of issuance and each year thereafter. Licenses shall apply only to the facility's location at the time of licensing. The licensee shall notify Arkansas Social Services of a change of location or ownership at which time a new study will be made.

APPENDICES

APPENDIX A

IMMUNIZATION SCHEDULE

The minimum requirements for entry into a Child Care Facility will depend upon the ages of the children admitted. The following immunization schedules are recommended by Arkansas Department of Health:

Children 2 Months to 15 Months of Age

VACCINE	AGE	REQUIRED NO. OF DOSES
Polio (Oral, Trivalent)	2 months	1
DTP (Diphtheria, Pertussis, Tetanus)	2 months	1
Polio	4 months	1
DTP	4 months	1
Polio	6 months	1
DTP	6 months	1
*Measles (Rubeola)	15 months	1
*Rubella	15 months	1

*Measles and Rubella may be administered singularly, combined together as Measles/Rubella in a single dose, or combined together as Measles/Mumps/ Rubella in a single dose.

Children 15 Months of Age and Older

VACCINE	Minimum Number of Doses Required
Polio	3
DTP*	3
Measles (Rubeola)	1
Rubella	1

*Children 6 years of age and older should received Td (adult-tetanus/ diphtheria) vaccine instead of DTP.

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Food Serving Size by Age
A guide to the Amounts of Food for Different Age groups 1/

Pattern	Children 1 up to 3 years	Children 3 up to 6 years	Children 6 up to 12 years	Age 12 4/ and over
Breakfast pattern:				
Juice or fruit.	1/4 cup	1/2 cup	1/2 cup	1 cup
Cereal or bread:				
Cereal	1/2 cup	1/3 cup	3/4 cup	1 cup
Bread.	1/2 slice	1/2 slice	1 slice	2 slices
Milk.	1/2 cup (4 fl. oz.)	3/4 cup	1 cup	1 cup
Lunch or Supper pattern:				
Meat or alternate:				
One of the following or combinations to give equivalent quantities:				
Meat, poultry, fish. . . .	1 ounce	1 1/2 ounces	2 ounces	3 ounces
Cheese	1 ounce	1 1/2 ounces	2 ounces	3 ounces
Egg 2/	1	1	1	1
Cooked dry beans and peas	1/8 cup	1/2 cup	1/2 cup	1 cup
Peanut butter.	1 tablespoon	2 tablespoons	4 tablespoons	5 tablespoons
Vegetable and fruit 3/	1/4 cup	1/2 cup	3/4 cup	1 1/4 cup
Bread.	1/2 slice	1/2 slice	1 slice	2 slices
Milk	1/2 cup	3/4 cup	1 cup	1 cup
Butter	1/2 teaspoon	1 teaspoon	2 teaspoons	2 teaspoons
Supplemental foods served between meals (a.m. and p.m. snacks):				
Milk or Juice	1/2 cup	1/2 cup	1 cup	1 cup
Cereal or bread:				
Cereal	1/4 cup	1/3 cup	3/4 cup	1 cup
Bread.	1/2 slice	1/2 slice	1 slice	2 slices

1/ Individual children will differ in amounts they will eat.
2/ When egg is served use in addition a half portion of meat or other alternate for all except children 1 up to 6 years.
3/ Should include at least two kinds. Vegetable or fruit.
4/ The amounts are based on food needs for 12-15 year old boy.

APPENDIX C
Age Appropriate Equipment

INFANCY TO TWO YEARS:

- Nested cans with smooth edges, non-toxic paint
- Soft, textured, washable stuffed animals and dolls
- Large, soft colorful balls
- Noisy, colorful, lightweight push-pull toys
- Large cardboard building blocks
- Noise makers (tin pans, shakers, rattles, chimes, bells, sticks) that are washable and free of sharp rough edges
- Rubber or plastic bath toys
- Sand toys with smooth edges
- Washable, colorful books with large pictures and small amounts of print
- Sturdy pounding sets
- Large, washable dolls
- Doll carriage

TWO TO FOUR YEARS:

- Pedal toys (tricycles, cars) that are large enough to sit on and ride
- Trucks which can be ridden, which hold objects
- Swings, teeter-totters, jumping boards
- Blocks of various sizes, wooden
- Wooden or rubber animals and figures
- Put-togethers (nested blocks, large pegboards, pounding sets) not needing much coordination
- Art materials (clay, large brushes, large pieces of paper, blunt scissors, large crayons, collage--pasting odds and ends on paper--finger paint)
- Sturdy rhythm instruments (drums, sticks, cymbals, rattles)
- Large dolls with clothes that are easily washed, dressed, handled
- Housekeeping equipment (brooms, chairs and table, doll bed, dishes, toy telephones) for pretending
- Wooden or cardboard boxes to be used for stacking or hiding inside
- Large beads or spools for stringing--also buttons
- Puzzles with 6 to 15 pieces depending upon age and ability
- Balls, bean bags
- Books about animals, children, families, things with which children are familiar
- Sand toys

FOUR TO SIX YEARS:

- Simple, sturdy gym equipment (low bars, rings, climbing apparatus, slides, swings, tumbling mats)
- Wheel toys (wagons, tricycles)
- Simple construction toys with limited number of pieces
- Puzzles from 12 to 25 pieces
- Dolls
- Wooden blocks with varied shapes and sizes
- Wooden or rubber animals and figures
- Beads for stringing
- Wood work equipment (soft wood, large nails, adult-size hammer and saw)
- Balls, bean bags
- Art materials (clay, paints, collage, scissors, crayons, paste, large pieces of paper)
- Dolls and doll equipment
- "Pretending" materials (doctor and nurse kit, fireman hat, police badges, Indian and cowboy costumes, dress-up clothes
- Equipment for store play (pretend money, empty food cans and boxes)
- Simple games (games of skill, of matching, using senses) such as ring toss
- Books (poems, rhymes, read-aloud) Need large pictures, small amount of print
- Rhythm instruments

SIX TO EIGHT YEARS:

- Construction sets
- Simple models
- Hobbies, collections (weaving or sewing kit, stamps, bugs, coins)
- Games (for two or three players) such as jackstraws, dominoes, parcheesi)
- Electric toys (trains)
- Bicycle
- Jumping rope
- Work bench and tools
- Doll house
- Paper dolls, other simple cut-outs
- Dress-up clothes, costumes
- Books (easy to read)
- Ball, glove, bat
- Playhouse
- Art materials
- Marbles
- Jacks
- Blackboard and chalk

APPENDIX D

CHILD CARE FACILITY LICENSING ACT

SECTION.		SECTION.	
83-901.	Title of act.	83-911.1.	Adjudication procedures.
83-902.	Definitions.	83-912.	Repealed
83-903.	Operation of facilities without license unlawful.	83-913.	Repealed
83-904.	Rules and regulations by child care facility review board - Consultation with commissioner of education and other agencies - Bases of regulations.	83-914.	Misdemeanors - Penalties.
		83-915.	Injunctions.
		83-916.	Licensing of existing facilities - Compliance with act within one year.
		83-917.	Declaratory judgements on regulations.
83-905.	Application for license - Issuance for one year - Limiting number of children served by facility.	83-918.	Declared unconstitutional
		83-919.	Declared unconstitutional
		83-920.	Religious exemption - Written request and verifications.
83-906.	Provisional licenses.	83-921.	Annual statement of compliance with standards - Visits by board - Standards for substantial compliance and for corporal punishment.
83-907.	License limited to location stated - Not transferable.		
83-908.	Declared unconstitutional		
83-909.	Records and reports.		
83-910.	Denial, revocation, or suspension of license - Written notice.	83-922.	Review by board - Appeal or challenge.
		83-923.	"Substantial compliance" and "is being operated in accordance with this Act" defined - Applicability.
83-911.	Child care review board - Membership - Terms - Adoption of rules and regulations governing procedure - Powers of welfare department transferred to review board.	83-924.	Act cumulative

Act 518 of 1981 has been declared unconstitutional by the U.S. District Court, Eastern District of Arkansas, Western Division in Case # LRC-83-192 November 22, 1983.

83-901. Title of act. --This Act (§§ 83-901 --83-916) shall be known and cited as the "Child Care Facility Licensing Act." (Acts 1969, No. 434, § 1, p. 1154.)

83-902. Definitions. --As used in this Act (§§ 83-901 --83-916), the following terms shall have the meanings set out below:

(A) "Welfare Department" means the State Department of Public Welfare (Division of Social Services).

(B) "Welfare Board" means the State Board of Public Welfare.

(C) "Welfare Commissioner" means the Commissioner of the State Department of Public Welfare (Social Services).

(D) "Child Care Facility" means any facility which provides care, training, education, custody, or supervision for any minor child who is not related by blood, marrige, or adoption to the owner or operator of such a facility, whether or not the facility is operated for profit, and whether or not the facility makes a charge for the services offered by it, and this definition includes, but is not limited to, a nursery, a nursery school, a kindergarten, a day care center, or a family day care home, foster homes, group homes and custodial institutions; provided, that this definition does not include: (1) special schools or classes operated solely for religious instruction; (2) facilities operated in connection with a church, shopping center, business, or establishment where children are cared for during short periods of time while parents or persons in charge of such children are attending church services, shopping, or engaging in other activities during such periods; (3) any educational facility, whether private or public, which operates solely for educational purposes in grades one or above and does not provide any custodial care; (4) kindergartens operated as a part of the public schools of this State; (5) any situation, arrangement, or agreement by which one or more persons care for the children of not more than four (4) families at the same time, but not to exceed six (6) children (6) any educational facility, whether public or private which operates a kindergarten program in conjunction with grades one and above, and provides short term custodial care, prior to and/or following classes for those students. (Acts 1969, No. 434, § 2, p. 1154; 1973, No.. 123, § 4, p. 434.)

83-903. Operation of facilities without license unlawful. --From and after September 1, 1970, it shall be unlawful for any person, partnership, group, corporation, organization or association to operate or assist in the operation of a Child Care Facility which has not been licensed by the Welfare Department (Child Care Facility Review Board). (Acts 1969, No. 434, § 3, p. 1154.)

83-904. Rules and regulations by child care facility review board -- Consultation with commissioner of education and other agencies --Bases of regulations. --(A) On or before January 1, 1970, the Welfare Department (Child Care Facility Review Board) shall promulgate and publish rules and regulations setting minimum standards governing the granting, revocation, refusal, and suspension of license for a Child Care Facility and the operation of a Child Care Facility. The Welfare Board shall advise the Welfare Department (Child Care Facility Review Board) regarding proposed rules and regulations and in

developing proposed rules and regulations shall consult with the State Health Officer (Director of the Department of Health) or his designated representative in regard to rules and regulations relating to health, and the Welfare Department (Child Care Facility Review Board) shall consult with the State Commissioner of Education or his designated representative in regard to rules and regulations relating to education. The State Health Officer (Director of the Department of Health) and the State Commissioner of Education and their designated representatives are hereby directed to cooperate with and assist the Welfare Department (Child Care Facility Review Board) in developing rules and regulations in the respective areas of health and education. In developing these rules and regulations the Welfare Department (Child Care Facility Review Board) may consult with such other agencies, organizations or individuals as it shall deem appropriate. Rules and regulations promulgated by the Welfare Department (Child Care Facility Review Board) as set out above may be amended by the Welfare Department (Child Care Facility Review Board) from time to time, provided, any such amendment to the rules and regulations shall be published and furnished to all licensed Child Care Facilities and applicants for a license at least sixty (60) days prior to the effective date of any such amendment.

(B) In establishing requirements and standards for the granting, revoking, refusing, and suspending of a license for a Child Care Facility the Welfare Department (Child Care Facility Review Board) shall adopt such rules and regulations as will: promote the health, safety and welfare of children attending a Child Care Facility; promote safe, comfortable, and healthy physical facilities for the children who attend the Child Care Facility; insure adequate supervision of the children by capable, qualified and healthy individuals; insure appropriate educational programs and activities within each Child Care Facility; and insure adequate and healthy food service where food service is offered by the Child Care Facility. (Acts 1969, No. 434, § 4, p. 1154.)

83-905. Application for license --Issuance for one year --Limiting number of children served by facility. --Any person, partnership, group, corporation, organization or association desiring to operate a Child Care Facility shall first make application for a license for such a facility to the Welfare Department (Child Care Facility Review Board) on the application forms furnished for this purpose by the Welfare Department (Child Care Facility Review Board). The Welfare Department (Child Care Facility Review Board) shall act on any such application within sixty (60) days after it has been received by the Welfare Department (Child Care Facility Review Board). If an applicant meets the requirements of this Act (§§ 83-901 --83-916) and the published rules and regulations of the Welfare Department (Child Care Facility Review Board) regarding minimum standards for a Child Care Facility, the applicant shall be granted a license by the Welfare Department (Child Care Facility Review Board) as a Child Care Facility, which license shall continue in effect for one (1) year or until revoked or suspended as provided herein. In issuing a license for a Child Care Facility, the Welfare Department (Child Care Facility Review Board) may limit the number of children who may be served by that facility. (Acts 1969, No. 434, § 5, p. 1154.)

83-906. Provisional license. --If the Welfare Department (Child Care Facility Review Board) finds that an applicant for a Child Care Facility meets the licensing requirements for a Child Care Facility in the main and has a reasonable expectation of correcting deficiencies in a reasonable time, the

Welfare Department (Child Care Facility Review Board) may, in its discretion, issue a provisional license for a Child Care Facility, with such provisional license to be in effect for a reasonable time, which time shall be specified in the provisional license. Issuance of provisional licenses shall be in accordance with the published rules and regulations adopted by the Welfare Department (Child Care Facility Review Board) in accordance with this Act (§§ 83-901 --83-916). (Acts 1969, No.. 434, § 6, p. 1154.)

83-907. License limited to location stated --Not transferable. --A license for a Child Care Facility shall apply only to the address and location stated on the application and license issued, and it shall not be transferable from one holder of the license to another or from one place to another. If the location of a Child Care Facility is changed or the operator of the Child Care Facility is changed the license for the Child Care Facility shall automatically be revoked on such a change. (Acts 1969, No. 434, § 8, p. 1154; 1981, No. 518 § 2, p. 1043.)

83-908. This section has been declared unconstitutional by the U.S. District Court, Eastern District of Arkansas, Western Division in Case #LRC-83-192 November 22, 1983.

83-909. Records and Reports. --The Welfare Department (Child Care Facility Review Board) may by published rules and regulations require that a licensed Child Care Facility keep and make available to the Welfare Department (Child Care Facility Review Board) such records and periodic reports as shall be necessary to assist the Welfare Department (Child Care Facility Review Board) in determining if the requirements of this Act (§§ 83-901 --83-916) and of the Welfare Department's (Child Care Facility Review Board) rules and regulations regarding Child Care Facilities are being complied with. (Acts 1969, No. 434, § 9, p. 1154.)

83-910. Denial, revocation, or suspension of license --Written notice. --The Welfare Department (Child Care Facility Review Board) shall have the power to deny, revoke, or suspend a license for a Child Care Facility if an applicant or licensee has failed to comply with the provisions of this Act (§§ 83-901 --83-916) or any published rule or regulation of the Welfare Department (Child Care Facility Review Board) relating to Child Care Facilities. If a license is denied, revoked or suspended such denial, revocation, or suspension shall be effective when made and the Welfare Department (Child Care Facility Review Board) shall notify the applicant or licensee of such action in writing and set out the basis for the denial, revocation or suspension of the license. (Acts 1969, No. 434, § 10, p. 1154.) (Refer to 83-911.1)

83-911. Child care review board --Membership --Terms --Adoption of rules and regulations governing procedure --Powers of welfare department transferred to review board. --There is hereby created the Child Care Facility Review Board which shall consist of: The Commissioner of the State Department of Public Welfare, which was renamed as the Social Services of the Department of Social and Rehabilitative Services under the provisions of Act 38 of 1971 (§§5-901 - 5-922); the State Health Officer (Director of the Department of Health) or his designated alternate; one (1) representative to be designated by, and

from the membership of, the Family and Children's Service State Advisory Committee; three (3) persons engaged in the provision of child care, one (1) each from the field of Day Care, Institutions, and Foster Care, to be appointed by the Governor from lists of persons nominated by associations or committees of providers of child care; and one (1) representative from the public to be appointed by the Governor; the State Commissioner of Education, or his designated alternate. The four (4) members of the Board appointed by the Governor shall, at all times, be from different counties and at least two (2) of these members shall be chosen from an area north of the fifth principal meridian and the other two (2) from an area south of the (fifth) principal meridian; they shall, at the first organization meeting of the Board, determine by lot their respective terms in order that the term of one (1) member shall expire on March 1, 1974, and the term of one (1) member shall expire on March 1 of each year thereafter. Successor members shall be appointed for four (4) year terms. Members of the Board shall serve without compensation, but each member of the Board shall be entitled to reimbursements for expenses for necessary meals, lodging, and mileage in attending Board meetings, to be payable from funds appropriated for the maintenance and operation of the Social Services Division of the Department of Social and Rehabilitative Services.

The Commissioner of Arkansas Social Services shall be Chairman of the Child Care Facility Review Board, but shall vote only in case of a tie vote. Within sixty (60) days following the passage of this Act, the Child Care Facility Review Board shall meet and adopt rules and regulations governing its procedures, and such rules and regulations shall be published and filed in the office of the Secretary of State.

From and after the effective date (May 15, 1973) of this Act, all powers vested in the Welfare Commissioner, and the Welfare Department, with respect to the promulgation and establishment of rules and regulations setting standards governing the granting, revocation, refusal and suspension of licenses for a child care facility, and the operation of a child care facility, are hereby transferred to, and the same shall hereafter be performed by, the Child Care Facility Review Board. It is the intent of this act that all powers vested in the Welfare Department and the Commissioner of Welfare to establish rules, regulations, and standards for the licensing of child care facilities, and the operation of child care facilities, and all powers with respect to the granting, revocation, refusal and suspension of licenses for a child care facility, and the operation of a child care facility, shall hereafter be vested in the Child Care Facility Review Board. The Commissioner of the Social Services Division of the Department of Social and Rehabilitative Services, shall continue to be the administrative agency to administer the provisions of Act 434 of 1969 (§§ 83-901 -- 83-916), in accordance with the rules, regulations and standards for the licensing and operation of child care facilities as promulgated by the Child Care Facility Review Board. (Acts 1969, No. 434, § 12, p. 1154; 1973, No. 123, § 2, p. 434; 1979, No. 904 § 1, p. 2005.)

83-911.1. Adjudication procedures. -- The Child Care Facility Review Board shall follow the procedures prescribed for adjudication in the Arkansas Administrative Procedure Act (§§ 5-701 --5-714) in exercising any power authorized by Section 10 of Act 434 of 1969 (Ark. Stat. Ann. Section 83-910 83-912, 83-913. (Repealed.)

83-914. Misdemeanors --Peralties. --Any person violating any provisions of this Act (§83-901 --83-915) and any person assisting any partnership, group, corporation, organization or association in violating any provisions of this Act shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in any sum not less than $25.00, and not more than $100. Each day of such violation shall constitute a separate offense. (Acts 1969, No. 434, § 14, p. 1154.)

83-915. Injunctions. --When any person, partnership, group, corporation, organization or association shall operate or assist in the operation of a Child Care Facility which has not been licensed by the Welfare Department (Child Care Facility Review Board) in accordance with the provisions of this Act (§ 83-901 --83-916), the Welfare Department (Child Care Facility Review Board) shall have the right to go into the Chancery Court in the jurisdiction in which the Child Care Facility is being operated, and upon affidavit secure a writ of injunction, without bond, restraining and prohibiting the person, partnership, group, corporation, organization or association from operating the Child Care Facility. (Acts 1969, No. 434, § 15, p. 1154.)

83-916. Lincensing of existing facilities --Compliance with act within one year. --Any person, partnership, group corporation, organization, or association in existence on the effective date (August 6, 1969) of this Act (§§ 83-901 --83-916), and which operates any child care facility, shall, upon application therefore be granted a license to operate such facility without regard to the requirements provided in this Act, or rules and regulations of the Welfare Department (Child Care Facility Review Board). Provided however, that such person, partnership, group, corporation, organization, or association shall comply with all requirments of this Act, or rules and regulations promulgated by the Welfare Department (Child Care Facility Review Board), regarding child care facilities within one (1) year from the date of issuance of any license. (Acts 1969, No. 434, § 16, p. 1154.)

83-917. Declaratory judgments on regulations. --Any rule or regulation promulgated by the Welfare Department (Child Care Facility Review Board) under authority of Section 3 of Act 434 of 1969, or under any other child care facility licensing law, shall, at the suit of any interested person instituted in the Chancery Court of Pulaski County, be subject to remedies provided by law for obtaining declaratory judgments; provided that the Welfare Commissioner shall be named a party defendant and summoned as in an action by ordinary proceedings. (Acts 1971, No. 715, § 1, p. 1417.)

83-918. This section has been declared unconstitutional by the U.S. District Court, Eastern District of Arkansas, Western Division in Case # LRC-83-192 November 22, 1983.

83-919. Has been declared unconstitutional by the U.S. District Court, Eastern District of Arkansas, Western Division in Case # LR-83-192 November 22, 1983.

83-920. Religious exemption - Written request and verifications. - Any church or group of churches, exempt from the State income tax levied by Act 118 of 1929, as amended, operating a child care facility, shall be exempt from obtaining a license to operate such facility by the receipt by the Child Care Facility Review Board of written request therefor, together with the written verifications required in Section 2 [§ 83-921] of this Act. A written request shall be made by those churches desiring exemption to the Child Care Facility Review Board which is mandated under the authority of Act 434 of 1969, as amended (Ark. Stats. Ann., 83-901 through 83-919) to license all child care facilities. [Acts 1983, No. 245, § 1, p. ____.]

83-921. Annual statement of compliance with standards - Visits by board - Standards for substantial compliance and for corporal punishment. - In order to maintain an exempt status, the child care facility shall stae [state] annually, in written form signed by the person or persons in charge, that their facility has met the fire, safety, [and] health inspections and is in substantial compliance with published standards that similar non-exempt child care facilities are required to meet. Visits to review and advise exempt facilities shall be made as deemed necessary by the Child Care Facility Review Board to verify and to maintain substantial compliance with all published standards for non-exempt facilities. Standards for substantial compliance shall not include those of a religious or curriculum nature so long as the health, safety and welfare of the child is [are] not endangered. Standards for corporal punishment shall be as established by present regulations unless aternative compliance is granted by the Child Care Facility Review Board. [Acts 1983, No. 245, § 2, p. ____.]

83-922. Review by board - Appeal or challenge. - Any questions of substantial compliance with the published standards shall be reviewed by the Child Care Facility Review Board. Final administrative actions of the Board shall be pursued by either party in the court of competent jurisidiction in the resident county of the facility under review. Challenge to the constitutionality or reasonableness of any regulation or statute may be made prior to any appeal under the Arkansas Administrative Procedure Act, Act 434 of 1967, as amended, (Ark. Stat. 5-701 et seq.). [Acts 1983, No. 245, § 3, p. ___.]

83-923. "Substantial compliance" and "is being operated in accordance with this Act" defined - Applicability. - As used in this Act [§§ 83-920 --83-924], and as used in Act 518 of 1981 [§§ 83-809, 83-818, 83-819], as amended, the term "substantial compliance", and the term "is being operated in accordance with this Act", as used in Act 434 of 1969 [§§ 83-901 -- 83-916], as amended, shall each mean, for the purposes of each of the aforementioned Acts, that a church-operated exempt or a non-exempt child care facility is being operated within the minimum requirements for substantial compliance as promulgated by the Child Care Facility Review Board.

It is the intent and purpose of this section that the term "substantial compliance" be applicable to all child care facilities. [Acts 1983, No. 245, § 4, p. _____.]

83-924. Act cumulative. - This Act [§§ 83-920 - 83-924] is cumulative to all other Acts heretofore enacted and shall not modify or repeal any of the provisions of Act 518 of 1981 [§§ 83-908, 83-918, 83-919]. [Acts 1983, No. 245, § 6, p. _____.].

APPENDIX E
SHOW CAUSE HEARING AND DENIAL,
REVOCATION, OR SUSPENSION OF LICENSE
WRITTEN NOTICE

If a complaint is received from Arkansas Social Services or from any interested person that a facility is not complying with the provisions of this Act or any published rule or regulation of Arkansas Social Services relating to child care facilities, the Child Care Facility Review Board shall issue a notice to the facility to show cause why their application for a license should not be denied or their license revoked or suspended. A show cause hearing shall be held at the next regular meeting of the Board at which time Arkansas Social Services or the complainant shall present evidence in support of their allegation that the facility is not in compliance with the provisions of this Act or any published rule or regulation. The facility may be represented by counsel and will be given an opportunity to refute the allegations.

After a hearing to show cause why a facility's license should not be denied, revoked, or suspended, the Child Care Facility Review Board may deny, revoke, or suspend the license of a child care facility. If the facility fails to appear for the show cause hearing, the allegations of the complainant or Arkansas Social Services shall be taken as confessed, and the Child Care Facility Review Board may deny a license, or revoke or suspend an existing license. If the Board finds, from evidence presented, that the child care facility has failed to comply with the provisions of this Act or any published rule or regulation; the Board may deny a license, or revoke or suspend an existing license. Revocation or suspension shall be effective when made, and Social Services shall notify the applicant or licensee of such action in writing and set out the basis for the denial, revocation, or suspension of the license.

PROCEDURAL PROCESS FOR HEARING ON DENIAL, REVOCATION, OR SUSPENSION OF LICENSE

ACT 349 of 1977 provides that administrative hearings for adjudication of the Child Care Facility Act shall follow the procedures prescribed for adjudication in the Arkansas Administrative Procedures Act (Act 434 of 1967). The following rules shall apply in all cases of adjudication:

a. All parties shall be afforded an opportunity for hearing after 20 days notice.

b. The notice shall include:

   1. A statement of the time, place, and nature of the hearing;
   2. A statement of the local authority and jurisdiction under which the hearing is to be held;
   3. A short and plain statement of the matters of fact and law asserted.

c. Opportunity shall be afforded to all parties to respond and present evidence and argument on all issues involved.

d. Nothing in these regulations shall prohibit informal disposition by stipulation, settlement, consent order, or default.

e. The record shall include:

   1. All pleadings, motions, and intermediate rulings;
   2. Evidence received or considered, including, on request of any party, a transcript of oral proceedings or any part thereof;
   3. A statement of matters officially noticed;
   4. Offers of proof, objections, and rulings thereon;
   5. Proposed findings and exceptions thereto;
   6. All staff memoranda or data submitted to the hearing officer or members of an agency in connection with their consideration of the case.

f. Findings of fact shall be based exclusively on the evidence and on matters officially noted.

HEARINGS. - In every case of adjudication, and in cases of rule making in which the agency shall direct that oral testimony be taken, or hearing held:

a. Any person compelled to appear before any agency or representative thereof, shall have the right to be accompanied and advised by counsel. Every party shall have the right to appear in person or by counsel.

b. There shall preside at the hearing:

   1. The chairman of the Child Care Facility Review Board or his designated representative and;
   2. A quorum of Child Care Facility Review Board.

All presiding officers and all officers participating in decisions shall conduct themselves in an impartial manner and may at any time withdraw if they deem themselves disqualified. Any party may file an affidavit of personal bias of disqualification, which shall be ruled on by the Board and granted if timely, sufficient, and filed in good faith.

c. 1. Presiding officers shall have power, pursuant to published procedural rules of the Board, (1) to administer oaths and affirmations, (2) to maintain order, (3) to rule upon all questions arising during the course of a hearing or proceeding, (4) to permit discovery by deposition or otherwise, (5) to hold conferences for the settlement or simplification of issues, (6) to make or recommend decisions, and (7) generally to regulate and guide the course of the pending proceeding.

2. In any proceeding before the Board, if any person refuses to take the oath or affirmation as a witness or thereafter refuses to be examined, or refuses to obey any lawful order of the Board contained in its decision rendered after the hearing, the Child Care Facility Review Board or the presiding officer of said Board hearing may apply to the circuit court of the county where the proceedings were held or are being held for an order directing that person to take the requisite action or to otherwise comply with the order of the Board. The Court shall issue such order in its discretion. Should any person willfully fail to comply with an order so issued, the Court shall punish him as for contempt.

d. Except as otherwise provided by law, the proponent of a rule, regulation, or order shall have the burden of proof. Irrelevant, immaterial, and unduly repetitious evidence shall be excluded. Any other oral or documentary evidence, not privileged, may be received if it is of a type commonly relied upon by reasonable prudent men in the conduct of their affairs. Objections to evidentiary offers may be made and shall be noted on record. When a hearing will be expedited, and the interests of the parties will not be substantially prejudiced, any part of the evidence may be received in written form.

e. Parties shall have the right to conduct such cross-examination as may be required for a full and true disclosure of the facts.

f. Official notice may be taken of judicially cognizable facts and of generally recognized technical or scientific facts within the Child Care Facility Review Board's specialized knowledge. Parties shall be notified of material so noticed, including any staff memoranda or data, and shall be afforded a reasonable opportunity to show the contrary.

DECISIONS. -

a. When in a case of adjudication a majority of the officials of the Child Care Facility Review Board who are to render the decision have not heard the case or read the record, the decision, if adverse to a party other than the Board, shall not be made until a proposal for decision is served

upon the parties, and an opportunity is afforded to each party adversely affected to file exceptions and present briefs and oral argument to the officials who are to render the decision. The proposal for decision shall contain a statement of the reasons therefore and of each issue of fact or law necessary thereto, prepared by the person who conducted the hearing.

b. In every case of adjudication, a final decision or order shall be in writing or stated in the record. A final decision shall include findings of fact and conclusions of law, separately stated. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings. If, in accordance with agency rules a party submitted proposed findings of fact, the decision shall include a ruling upon each proposed finding. Parties shall be served either personally or by mail with a copy of any decision or order.

Exparte communications. - Unless required for the disposition of exparte matters authorized by law, the Child Care Facility Review Board assigned to render a decision or to make final or proposed findings of fact or conclusions of law in any case of adjudication shall not communicate, directly or indirectly, in connection with any issue of fact, with any person or party, nor, in connection with any issue of law, with any party or his representative, except upon notice and opportunity for all parties to participate. A Board member:

1. May communicate with other members of the Board, and;

2. May have the aid and advice of Arkansas Social Service workers.

LICENSES. -

a. The granting, denial, or renewal of a license will be preceeded by notice and an opportunity for hearing, as provided in cases of adjudication.

b. When a licensee has made timely and sufficient application for the renewal of a license or a new license with reference to any activity of a continuing nature, the existing license shall not expire until the application has been finally determined by the Child Care Facility Review Board, and, in case the application is denied or the terms of a new license limited, until the last day for seeking review of the Board order, or a later date fixed by order of the reviewing court.

c. No revocation, suspension, annulment, or withdrawal of any license is lawful unless, prior to the institution of Board proceedings, the Child Care Facility Review Board gave notice by mail to the licensee of facts or conduct warranting the intended action, and the licensee was given an opportunity to show compliance with all lawful requirements for the retention of the license.

EMERGENCY ACTION. - Whenever the Child Care Facility Review Board determines that a situation exists in a facility that jeopardizes the health, safety, or

welfare of a child or children in the facility, so that continued operation of the facility may result in death or injury to a child or children in the facility, the Board may summarily suspend the license and direct that the facility cease operation immediately, and thereafter set down a hearing for the facility to show cause why the license of the facility should not be revoked or proper action taken under the provisions of the Administrative Procedures Act.

The Commissioner of Arkansas Social Services as chairman of the Child Care Facility Review Board is authorized and directed to act for the Board, when the Child Care Facility Review Board is not in session, to determine if an emergency situation exists; and to take immediate action to deny, revoke or suspend a license and order immediate closure of the facility. The action of the Commissioner shall be reviewed within five (5) days by a quorum of the Child Care Facility Review Board and his action revoked or confirmed; and thereafter the matter shall be set down for a hearing for the facility to show cause why the license of the facility should not be revoked or proper action taken under the provisions of the Administrative Procedures Act.

JUDICIAL REVIEW OF ADJUDICATION. -

a. In cases of adjudication, any person who considers himself injured in his person, business, or property by final Child Care Facility Review Board action shall be entitled to judicial review thereof under this Act. Nothing in this Section shall be construed to limit other means of review provided by law.

b. Proceedings for review shall be instituted by filing a petition.

   1. In Circuit Court of any county in which the petitioner resides or does business, or;

   2. In Circuit Court of Pulaski County within thirty days after service upon petitioner of the Child Care Facility Review Board's final decision, copies of the petition shall be served upon the chairman of the Board and all other parties of record by personal delivery or by mail. The court, in its discretion, may permit other interested persons to intervene.

c. The filing of the petition shall not automatically stay enforcement of the Board decision, but the Board or a reviewing court may do so upon such terms as may be just.

d. Within thirty (30) days after service of the petition, or within such further time as the court may allow, but not exceeding an aggregate of ninety (90) days, the Board shall transmit to the reviewing court the original or a certified copy of the entire record of the proceeding under review. By stipulation of all parties to the review proceeding, the record may be shortened. Any party unreasonably refusing to stipulate to limit the record may be taxed by the court for the additional costs. The court may require or permit subsequent corrections or additions to the record.

e. If review proceedings have been instituted in two (2) or more Circuit Courts with respect to the same order, the Board shall file the record in the court in which a proceeding was first instituted. The other courts in which such proceedings are pending shall thereupon transfer them to the court in which the record has been filed.

f. If, before the date set for hearing, application is made to the court for leave to present additional evidence, and the court finds that the evidence is material and that there were good reasons for failure to present it in the proceeding before the Board, the court may order that the additional evidence be taken before the Board upon such conditions as may be just. The Board may notify its findings and decision by reason of the additional evidence and shall file that evidence and any modifications, new findings, or decisions with the reviewing court.

g. The review shall be conducted by the court without a jury and shall be confined to the record, except that in cases of alleged irregularities in procedure before the Board, not shown in the record, testimony may be taken before the court. The court shall, upon request hear oral argument and receive written briefs.

h. The court may affirm the decision of the agency or remand the case for further proceedings. It may reverse or modify the decision if the substantial rights of the petitioner have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:

1. In violation of constitutional or statutory provisions;
2. In excess of the agency's statutory authority;
3. Made upon unlawful procedure;
4. Affected by other error of law;
5. Not supported by substantial evidence of record; or
6. Arbitrary, capricious, or characterized by abuse or discretion.